

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT

AVC NO. 04-023

SPORTZONE)
)
)
Respondent.)

MISCELLANEOUS DOCKET
NO. _____

FILED

AUG 12 2001

Donna Ann Snodden
CLERK OF THE
MARION CIRCUIT COURT

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Roy P. Coffey, and the Respondent, Sportzone, enter into an Assurance of Voluntary Compliance (Assurance), pursuant to Indiana Code §24-5-0.5-7.

Any violation of the terms of this Assurance constitutes prima facie evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. Respondent has mailing addresses and does business in Marion County, 6601 Coffman Road, Indianapolis, Indiana and has engaged in consumer transactions with Indiana consumers.

2. Respondent acknowledges and admits its responsibility and liability for acts, practices, and methods employed by its partners, employees, agents, and representatives within the scope of their employment in the solicitation and/or sale of health spa service contracts.

3. Respondent agrees, pursuant to Indiana Code § 24-5-7-5, that every Indiana health spa service contract it furnishes to buyers shall contain a notice of the

buyer's cancellation rights in ten point boldface writing, and a copy shall be furnished to the buyer at the time the contract is formed.

4. Respondent agrees multiple notices of cancellation shall be consistent and shall comply with Indiana Code § 24-5-7-5.

5. Respondent agrees, pursuant to Indiana Code § 24-5-7-5 that every Indiana health spa services contract it furnishes to buyers will advise the buyer of the buyer's right to cancel the contract by providing written notice, in any form, delivered in person or mailed by certified or registered mail to the seller before midnight of the third full business day after the buyer signs the contract.

6. Respondent agrees, pursuant to Indiana Code § 24-5-7-5, that every Indiana health spa services contract it furnishes to buyers will advise the buyer that the buyer must provide all membership cards previously delivered to the buyer if the buyer wishes to cancel the health spa contract within the buyer's three day right of rescision.

7. Respondent agrees, pursuant to Indiana Code § 24-5-7-5, that every Indiana health spa services contract it furnishes to buyers will advise the buyer in at least ten (10) point boldface type that all money paid under a contract canceled within the buyer's three day cancellation period shall be refunded within thirty (30) days of receipt of the notice of cancellation.

8. Respondent agrees, pursuant to Indiana Code § 24-5-7-5, all money paid under a contract shall be refunded within thirty (30) days of receipt of the notice of cancellation.

9. Respondent agrees, pursuant to Indiana Code § 24-5-7-6, every Indiana health spa service contract that has not been canceled by section 5 of the Indiana Health

Spa Services Act (paragraphs 3-5 of this Assurance) shall contain a provision in at least ten (10) point boldface type that the buyer or the buyer's estate may cancel the contract if any of the following occur:

- a. The buyer dies
- b. The buyer becomes totally physically disabled for the duration of the contract.
- c. The health spa facility operated by the seller is moved to a location that is more than five (5) miles away from the original facility. However, if a health spa facility is closed at any site and facility with similarly health spa services is operated less than five (5) miles away from the closed facility, then the buyer's contract may be transferred to the operating facility, if the operator of the facility to which the contract is to transferred accepts the transfer.
- d. The services are not longer available as provided in the contract because of the seller's permanent discontinuance of operation.

10. Respondent agrees, pursuant to Indiana Code §24-5-7-7, that when a buyer is required by Respondent to submit to a physical examination to verify total physical disability, the physician shall be acceptable to the buyer and the cost of the examination shall be borne by the health spa.

11. Respondent agrees, pursuant to Indiana Code § 24-5-7-8(a), every Indiana health spa service contract it furnishes to buyers will advise the buyer that, in a cancellation under section 6 of the Indiana Health Spa Services Act (paragraph 7 of this Assurance), the seller may retain the portion of the total price representing the services used or completed plus reimbursement for expenses incurred in an amount not to exceed twenty-five percent (25%) of the total contract price. In no instance may the seller demand more than the full contract price from the buyer.

12. Respondent agrees that every Indiana health spa services contract it furnishes to buyers in which the buyer has executed any credit or loan agreement will

advise the buyer in at least ten (10) point boldface type of the seller's duty to cancel and return the credit or loan agreement within (30) days after proper cancellation of the contract.

13. Respondent agrees that every Indiana health spa services contract it furnishes to buyers will not state in any manner that the health spa service contract or payments may not ever be suspended or canceled.

14. Respondent agrees that every Indiana health spa services contract it furnishes to buyers will not state in any manner that money paid by consumer will not ever be refunded.

15. Respondent or any of its agents, in soliciting and/or contracting consumers, agrees to refrain from conducting any business activity in the State of Indiana unless those activities are in full compliance with the Health Spa Services Act, Indiana Code § 24-5-7-1 et seq.

16. Respondent, in soliciting and /or contracting with consumers, agrees to comply in all aspects with the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 et seq.

17. Respondent agrees to cancel the health spa service contract and issue a prorated refund based on actual use of the health spa to any buyer who files a complaint with the Consumer Protection Division of the Indiana Attorney General's Office in which the health spa service contract between Respondent and the consumer contains any violations of the Indiana Health Spa Services Act.

18. Upon execution of this Assurance, Respondent shall pay Five Hundred and 00/100 Dollars (\$500.00) to the Office of the Attorney General for costs.

19. Respondent agrees to fully cooperate with the Office of the Attorney General in the resolution of any future complaints received by the Consumer Protection Division.

20. This Assurance does not constitute an approval by the Attorney General of any of Respondent's past or future business practices, and Respondent shall not make any representations to the contrary.

21. This Assurance of Voluntary Compliance is to be filed by the Office of the Attorney General with the Circuit Court of Marion County.

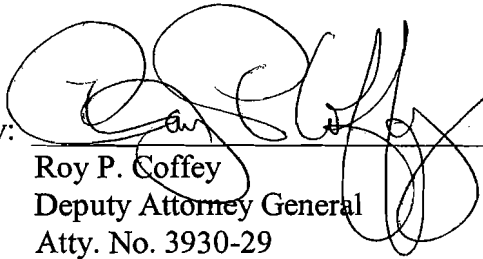
The parties have executed this Assurance this 21 day of July, 2004.

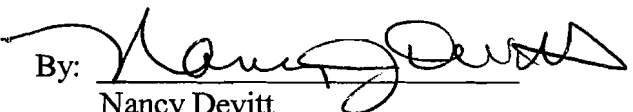
STATE OF INDIANA

RESPONDENT

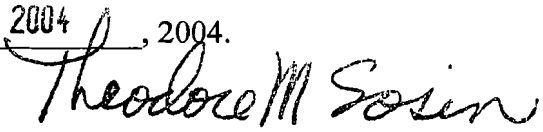
STEVE CARTER
Attorney General of Indiana

SPORTZONE

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By: 
Nancy Devitt
Director of Operations

APPROVED this _____ day of AUG 12 2004, 2004.



Judge, MARION Circuit Court